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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MICHAEL ZELENY, an individual,

3:17-cv-07357 RS (NC)

Plaintiff.

V.

GAVIN NEWSOM¹, an individual, in his official capacity; XAVIER BECERRA, an individual, in his official capacity; CITY OF MENLO PARK, a municipal corporation; and DAVE BERTINI, in his official capacity,

Defendants.

DEFENDANT ATTORNEY GENERAL XAVIER BECERRA'S RESPONSES TO PLAINTIFF MICHAEL ZELENY'S FIRST SET OF INTERROGATORIES²

PROPOUNDING PARTY: Plaintiff Michael Zeleny

ANSWERING PARTY: Defendant Attorney General Xavier Becerra

SET NUMBER: One

¹ Although Edmund G. Brown, Jr., sued in his official capacity as the Governor of California, has been dismissed from this matter, Defendant Becerra updates the caption to substitute Governor Gavin Newsom for former Governor Edmund G. Brown, Jr., pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure.

² Verification to follow.

Verification to follow.

1 Legislature considered including other forms of “speech or expressive conduct” in enacting Penal
2 Code §§ 26375 and 26405, subdivision (r). Thus, Defendant Becerra is unable to respond to this
3 interrogatory.

4 **INTERROGATORY NO. 9:** Identify all documents bearing upon, supporting, or
5 reflecting the reasons set forth in Your response to the preceding interrogatory.

6 **RESPONSE TO INTERROGATORY NO. 9:**

7 Defendant Becerra incorporates by reference the above-stated general objections as though
8 fully set forth herein. Defendant Becerra objects to this interrogatory on the grounds that it is
9 vague and overbroad, and unduly burdensome. Moreover, it seeks information irrelevant to
10 Plaintiff Zeleny’s claims, and not reasonably calculated to lead to the discovery of information
11 that is relevant to Plaintiff’s claims.

12 Subject to, and without waiving the foregoing objections, Defendant Becerra responds as
13 follows: N/A.

14 **INTERROGATORY NO. 10:** Does the phrase “authorized participant” as used in
15 California Penal Code §§ 26375 and 26405(r) refer to a participant authorized by a governmental
16 body or agency?

17 **RESPONSE TO INTERROGATORY NO. 10:**

18 Defendant Becerra incorporates by reference the above-stated general objections as though
19 fully set forth herein. Defendant Becerra objects to this interrogatory on the grounds that it is
20 vague and overbroad. Moreover, it seeks information irrelevant to Plaintiff Zeleny’s claims, and
21 not reasonably calculated to lead to the discovery of information that is relevant to Plaintiff’s
22 claims.

23 Subject to, and without waiving the foregoing objections, Defendant Becerra responds as
24 follows: Penal Code §§ 26375 and 26405, subdivision (r) do not include definitions of the phrase
25 “authorized participant.”

26 However, according to the Legislative history of Penal Code § 26375, that section permits
27 the use of unloaded handguns as an “entertainment props.” (See DOJ 000219) Additionally, the
28 Entertainment Firearms Permit only authorizes the permit holder “to possess firearms loaned to

1 the permitholder for use solely as a prop in a motion picture, television, video, theatrical, or other
 2 entertainment production or event.” (Penal Code § 29500.) Thus, the exceptions set forth in
 3 Penal Code §§ 26375 and 26405, subdivision (r) are available only to those using unloaded
 4 firearms loaned to them for use as “entertainment props” in a motion picture, television, video,
 5 theatrical, or other entertainment production or event.

6 **INTERROGATORY NO. 11:** If Your answer to Interrogatory No. 10 is in the
 7 affirmative, identify the governmental bodies or agencies from which authorization is required?

8 **RESPONSE TO INTERROGATORY NO. 11:**

9 Defendant Becerra incorporates by reference the above-stated general objections as though
 10 fully set forth herein. Defendant Becerra objects to this interrogatory on the grounds that it is
 11 vague and overbroad, and unduly burdensome. Moreover, it seeks information irrelevant to
 12 Plaintiff Zeleny’s claims, and not reasonably calculated to lead to the discovery of information
 13 that is relevant to Plaintiff’s claims.

14 Subject to, and without waiving the foregoing objections, Defendant Becerra responds as
 15 follows: N/A.

16 **INTERROGATORY NO. 12:** If Your answer to Interrogatory No. 10 is in the
 17 affirmative, state all bases for your contention that the phrase “authorized participant,” as used in
 18 California Penal Code §§ 26375 and 26405(r), refers to a participant authorized by a
 19 governmental body or agency?

20 **RESPONSE TO INTERROGATORY NO. 12:**

21 Defendant Becerra incorporates by reference the above-stated general objections as though
 22 fully set forth herein. Defendant Becerra objects to this interrogatory on the grounds that it is
 23 vague and overbroad, and unduly burdensome. Moreover, it seeks information irrelevant to
 24 Plaintiff Zeleny’s claims, and not reasonably calculated to lead to the discovery of information
 25 that is relevant to Plaintiff’s claims.

26 Subject to, and without waiving the foregoing objections, Defendant Becerra responds as
 27 follows: N/A.

1 Dated: April 3, 2019
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Respectfully submitted,

3 XAVIER BECERRA
4 Attorney General of California
5 ANTHONY R. HAKL
6 Supervising Deputy Attorney General
7



8 NOREEN P. SKELLY
9 Deputy Attorney General
10 *Attorneys for Defendant Attorney General*
11 *Xavier Becerra*
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DECLARATION OF SERVICE BY OVERNIGHT COURIER

Case Name: **Zeleny, Michael v. Edmund G. Brown, et al.**

No.: **3:17-cv-07357 RS (NC)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550.

On April 3, 2019, I served the attached **DEFENDANT ATTORNEY GENERAL XAVIER BECERRA'S RESPONSES TO PLAINTIFF MICHAEL ZELENY'S FIRSTS SET OF INTERROGATORIES** by placing a true copy thereof enclosed in a sealed envelope with the **Golden State Overnight**, addressed as follows:

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Attorneys for Defendants City of Menlo Park and Dave Bertini

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 3, 2019, at Sacramento, California.

Eileen A. Ennis
Declarant


Signature